

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

FILED
U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION
2002 OCT 13 PM 3:38

CLERK OF COURT

BILLY E. CRONKRITE AND
LINDA CRONKRITE

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CIVIL ACTION NO.

VS.

THE HOME DEPOT, INC., HOME DEPOT
USA, INC., d/b/a THE HOME DEPOT,
HOME DEPOT INTERNATIONAL, INC.
d/b/a HOME DEPOT OF TEXAS

4-02-CV-0856-A

DEFENDANTS' NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS

Defendants **THE HOME DEPOT, INC., HOME DEPOT USA, INC. d/b/a THE HOME
DEPOT, HOME DEPOT INTERNATIONAL, INC. d/b/a HOME DEPOT OF TEXAS** file this
Notice of Removal. As grounds for removal, Defendants state as follows.

1 **BILLY E. CRONKRITE and LINDA CRONKRITE** (hereinafter referred to as
"Plaintiffs") are the Plaintiffs in this civil action, originally filed on July 19, 2002, in the 96th Judicial
District Court for Tarrant County, Texas, entitled "*Billy E. Cronkrite and Linda Cronkrite vs. The
Home Depot, Inc., Home Depot USA, Inc. d/b/a The Home Depot, Home Depot International, Inc.
d/b/a Home Depot of Texas,*" Cause No 96-193972-02. Attached hereto and marked as Exhibit "A"
is an index of all documents filed in the 96th Judicial District Court for Tarrant County, Texas, which
clearly identifies each document and indicates the date the document was filed in state court as required
by 28 U.S.C. §1446(a) and Local Rule 81.1. Included with the index is a copy of each document filed
in the 96th Judicial District Court for Tarrant County, Texas, except discovery material, individually

tabbed and arranged in chronological order according to the state court file date. Attached and marked as Exhibit "B" is a certified copy of the District Court Docket Sheet as required by Local Rule 81.1.

2 Plaintiffs' responses to Defendants' request for disclosure indicates that the Plaintiffs' claim for damages will exceed \$75,000.00, which grants federal jurisdiction for this claim. Defendants were served with these responses on or about September 25, 2002. This Notice of Removal is filed within thirty (30) days of service of Plaintiffs' responses to request for disclosure and is timely filed under 28 U.S.C. §1446(b).

3 The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties in that Plaintiffs are now, and were at the time the action was commenced, diverse in citizenship from Defendants. Defendants are corporations that were incorporated under the laws of the State of Delaware, having their principal offices and places of business now, and at the time this action was commenced, in Atlanta, Georgia.

4 Pursuant to Plaintiffs' discovery responses, the amount in controversy in this action exceeds, exclusive of interest and costs, the sum of \$75,000.00. *Please see pp. 4-6 of Plaintiffs' Responses to Defendants' Request for Disclosure, a copy of which is attached to this Notice of Removal and marked as Exhibit "C."* Although Plaintiffs have not filed formal pleadings setting forth the amount of damages sought, the Plaintiffs' discovery responses do place Defendants on notice of the minimum amount of damages that Plaintiffs are seeking. See *De Aguilar v. Boeing Co.*, 11 F.3d 55, 57 (5th Cir. 1995).

5 Removal of this action is proper under 28 U.S.C. §1441 since it is a civil action brought in state court and the federal district courts have original jurisdiction over the subject matter pursuant to 28 U.S.C. §1332 because Plaintiffs and Defendants are diverse in citizenship.

DEMAND FOR TRIAL BY JURY

6 Pursuant to FED. R. CIV. P. 38(b) and 81(c), Defendants hereby demand that this case be tried by jury.

WHEREFORE, PREMISES CONSIDERED, Defendants **THE HOME DEPOT, INC., HOME DEPOT USA, INC. d/b/a THE HOME DEPOT, HOME DEPOT INTERNATIONAL, INC. d/b/a HOME DEPOT OF TEXAS**, pursuant to federal law and in conformity with the requirements set forth in 28 U S C §1446, remove this action for trial by jury from the 96th Judicial District Court for Tarrant County, Texas, to this Court on the 18th day of October, 2002.

Respectfully submitted,

SUCHOCKI, BULLARD & CUMMINGS
One Summit Avenue, Suite 312
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By Bernard R. Suchocki
Bernard R. Suchocki
State Bar No. 19458500

ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned attorney for The Home Depot, Inc., Home Depot USA, Inc. d/b/a The Home Depot, Home Depot International, Inc. d/b/a Home Depot of Texas certifies that, on October 18, 2002, a copy of the Notice of Removal in this action was filed with the 96th Judicial District Court, Tarrant County, Texas, and that written notice of the filing of the Notice of Removal was mailed, via certified mail, to the parties named above as Plaintiffs in this action, by and through their attorney of record. Removal of this action is effective as of October 18, 2002 pursuant to 28 U.S.C. §1446.

DATE: October 18, 2002

Bernard R. Suchocki
Bernard R. Suchocki